

Fact Sheet



**U.S. Department of Labor
Employee Benefits Security Administration
September 2004**

Orphan Plans And Your Retirement Benefits

The Labor Department's Employee Benefits Security Administration (EBSA) administers the federal law dealing with retirement, health and other benefit programs sponsored by private-sector companies. EBSA began receiving an increase in the number of complaints from workers who could not get in touch with persons responsible for managing and operating their 401(k) plans. As a result, the agency launched an enforcement program to re-connect workers with abandoned 401(k) and other retirement plans.

Background

- ✂✂ The Labor Department found that plans may become “orphaned” when there is no one left with authority to operate the plan due to death of the persons designated as fiduciaries, neglect to appoint successor fiduciaries, and corporate mergers or bankruptcies.
- ✂✂ Orphaned plans are usually retirement plans, like 401(k) plans.
- ✂✂ Although most plans are responsibly managed, the Department noticed an increase in the number of consumer complaints about their inability to reach the plan or obtain benefits.
- ✂✂ The Department started a national enforcement project on orphan plans in 1999 to protect workers' retirement benefits.

Orphan Plan Enforcement Results

- ✂✂ Since the project began on October 1, 1999 to September 30, 2004, the Department has:
 - ✂✂ Obtained total monetary results of \$299 million, affecting 521,738 participants.
 - ✂✂ Opened 1,139 civil and criminal investigations, with 982 civil and criminal cases closed.
 - ✂✂ Located existing plan fiduciaries to take over management of plans, and alternatively,
 - ✂✂ Obtained the appointment of independent fiduciaries for 82 separate plans to wind down plan operations and distribute retirement benefits to participants.
- ✂✂ In one recent case, the Department sued to obtain a court-appointed independent fiduciary to manage the 401(k) plan of defunct Edgewater Medical Center in Chicago. The independent fiduciary will have authority to distribute more than \$1 million to the plan's 293 participants and

to terminate the plan. The suit alleged that the Center failed to terminate the plan after ceasing business operations in December 2001. The Department also alleged that participants and beneficiaries were unable to obtain distributions from their plan accounts.

Protecting Workers' Benefits

✂✂ The Department started the enforcement project to protect workers who are at risk of losing some or all of their retirement benefits.

✂✂ The typical orphan plan case involves:

- ✂✂ A retirement plan of a small company with fewer than 100 employees;
- ✂✂ Owners of companies that may not have the expertise to properly manage the plan or understand their role as plan fiduciaries;
- ✂✂ Employees who may not understand the plan rules on operation and termination of the retirement plan;
- ✂✂ Failure to wind up the business affairs of a plan, especially in situations involving corporate mergers and bankruptcies.

✂✂ EBSA connects workers with their retirement savings from abandoned plans by:

- ✂✂ Locating plan fiduciaries with authority to manage the plan,
- ✂✂ Requiring responsible plan fiduciaries to fulfill their duties, including filing appropriate forms to comply with the law and the distributing benefits owed to plan participants,
- ✂✂ Identifying and penalizing plan officials who fail to carry out their responsibilities to plan participants, where possible,
- ✂✂ Alternatively, obtaining a court-appointed fiduciary to oversee the orphaned plan, distribute the assets to eligible workers and their families, and if necessary, terminating the plan, and
- ✂✂ Working with other federal agencies to help streamline the process of plan termination and distribution of assets.

✂ The agency also works with other federal agencies like the Internal Revenue Service and Pension Benefit Guaranty Corporation to help both individuals and financial institutions who may wind up as caretakers of orphan plans by default by streamlining the process of plan termination and distribution of assets.

Contact Information

If you think your plan has been abandoned, contact the EBSA staff by calling the toll-free number at **1-866-444-EBSA (3272)** or by email at www.askebsa.dol.gov. Other publications about retirement benefits are accessible through the toll-free number or online at www.dol.gov/ebsa under Publications/Reports.